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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/033,305 | 12/28/2001 | Justin Falconer Chapweske | 4110-4002US1 | 8199 |

7590 03/07/2005
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EXAMINER

HOSSAIN, TANIM M

| | |
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| ART UNIT | PAPER NUMBER |
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2145

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/033,305 | Applicant(s) CHAPWESKE, JUSTIN FALCONER | |
| | Examiner Tanim Hossain | Art Unit 2145 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 December 2001.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-138 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-138 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 December 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-138 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al (U.S. 6,742,023) in view of Schuster et al (U.S. 6,771,674).

As per claim 1, Fanning teaches a method of using a computer for transferring data comprising: sending a request for data to a targeted computer system (column 2, lines 40-52); determining if the data is in a look-up list that references other computers having the requested data (2; 40-52); sending the request to the other computers having the requested data (2; 40-52); sending the data to a requesting user (2; 40-52); receiving the data from sending computers (2; 40-52); and saving the data in memory (2; 23-39). Fanning does not specifically teach the encoding of the data using an acknowledgement independent equalized data packet encoding scheme, and then decoding the received encoded data. Schuster teaches the encoding of data using the FEC scheme, which is acknowledgement independent and equalized (column 7, lines 20-34), and the decoding of the received data (2; 20-52). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to encode data prior to transmission, and then decode this data after reception, as taught by Schuster in the system of Fanning. The motivation for doing so lies in the fact that having equalized encoded packets

transmitted allows for further flexibility in that packet loss would not result in the failure of the entire download – the missing packet can easily be replaced. Both inventions are from the same field of endeavor, namely the efficient transmission of data from peer to peer.

As per claim 2, Fanning-Schuster teaches the method of claim 1, wherein data transmission is accomplished over a peer-to-peer network (Fanning: 1; 5-10).

As per claim 3, Fanning-Schuster teaches the method of claim 1, wherein encoded packets are relayed (Fanning: 2; 40-52).

As per claim 4, Fanning-Schuster teaches the method of claim 1, wherein the look-up list is populated with nodes based on data transfer rates (Fanning: 3; 14-48).

As per claim 5, Fanning-Schuster teaches the method of claim 1, wherein the look-up list is populated with nodes based on data types stored within the nodes (Fanning: 3; 14-48).

As per claim 6, Fanning-Schuster teaches the method of claim 1, wherein the lookup list is a mesh list (Fanning: 3; 14-48).

As per claim 7, Fanning-Schuster teaches the method of claim 1, wherein the acknowledgement independent equalized data packet encoding scheme is a FEC encoding (Schuster: 7; 20-34).

As per claim 8, Fanning-Schuster teaches the method of claim 1, wherein the data that is to be encoded is segmented before encoding (Schuster: 2; 16-24).

As per claim 9, Fanning-Schuster teaches the method of claim 1, wherein the received encoded packets are decoded, and then re-encoded for further transmission upon request (Schuster: 1; 30-40).

Claims 10-17 are rejected on the same bases as claims 1-8 respectively.

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Claims 18-25 are rejected on the same bases as claims 1-8 respectively.

Claims 26-34 are rejected on the same bases as claims 1-9 respectively.

Claims 35-43 are rejected on the same bases as claims 1-9 respectively.

Claims 44-51 are rejected on the same bases as claims 1-8 respectively.

Claims 52-59 are rejected on the same bases as claims 1-8 respectively.

Claims 60-68 are rejected on the same bases as claims 1-9 respectively.

Claims 69-77 are rejected on the same bases as claims 1-9 respectively.

Claims 78-85 are rejected on the same bases as claims 1-8 respectively.

Claims 86-93 are rejected on the same bases as claims 1-8 respectively.

Claims 94-102 are rejected on the same bases as claims 1-9 respectively.

Claims 103-111 are rejected on the same bases as claims 1-9 respectively.

Claims 112-119 are rejected on the same bases as claims 1-8 respectively.

Claims 120-127 are rejected on the same bases as claims 1-8 respectively.

Claims 128-136 are rejected on the same bases as claims 1-9 respectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

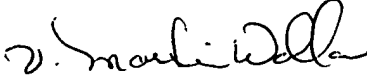
a. Cooper (U.S. 2001/0051996) teaches a network-based content distribution system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanim Hossain whose telephone number is 571/272-3881. The examiner can normally be reached on 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571/272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tanim Hossain
Patent Examiner
Art Unit 2145


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